

**REGIONAL TRIBAL OPERATIONS COMMITTEE MEETING
U.S. EPA REGION 5
MARCH 03, 2004**

Meeting Participants:

Ferdinand Marteneau, Fond Du Lac
William Dew, IEPA IEO
Mark Parrish, Pokagon Band
Rachel Schwarz, Little Traverse Bay
Katie Staria, St. Croix
Vicki Thomas, GLNPO
Bill Munro, EPA, SF
Jim Dunning, Ho-Chunk
Jeff Mears, Oneida
Bert Frey, ORC
Margaret Guerriero, EPA, WPT
David Jones, Huron Pottawatomi
Chris Berini, Fond du Lac
Victor Aubid, Grand Portage
Edward Fairbanks, EPA , IEO MN
Margaret Watkins, Grand Portage
Dan Cozza, EPA, STPB
Gary Schuettelpelz, Menominee
Roger Field, EPA, ORC
Todd Warner, Keweenaw Bay
Scott Hanson, Mille Lacs
Auujanee Gautreaux, EPA, ARD
Steve Dodge, EPA, IEO, WI

Milton Pelcher, Saginaw Chippewa
Sally Kniffen, Saginaw Chippewa
Mike Tennenbaum, Gun Lake
Sarah Slayton, St Croix
Ralph Dashner, Bad River
Rick Karl, EPA, SF
Norm Niedergang, EPA, RMD
Dee A. Mayo, Lac du Flambeau
Tina Van Zile, Mole Lake
Steve Rothblatt, ARD
Jodi Traub, EPA, Water Div.
Stan Ellison, SMSC
Shannon Judd, Grand Portage
Jennifer Manville, EPA, IEO MI
Chris Kushman, ITC of Michigan
David Horak, EPA, STPB
Brand Frazier, Grand Portage
Mike Nishi, EPA, IEO
Jane Neumann, EPA, SF
Michael Whitt, Shakopee Mdewakanton
Paulette Foreste, EPA, IEO
Dolly Tong, EPA, SW

Welcome and Introductions

In Tom Skinner's absence, Martineau opened the meeting and provided a welcome. Introductions were made.

RTOC Administrative Business and Updates

The meeting minutes from December 03, 2003, were previously distributed, and a copy was included in the information packet. No additional changes/additions were expressed at the meeting, and the meeting minutes were considered approved.

Manville reviewed the documents included in the RTOC meeting package.

Manville indicated that the RTOC Tracking Matrix was included in the meeting packet, and reviewed the status of the action items.

Ellison provided an update from the National Tribal Operations Committee (NTOC). The primary issue under consideration by the NTOC is the U.S. EPA national budget. March 22 is the next scheduled meeting. Ellison will attempt to have the issue of broadening the interpretation of capacity-building under the General Assistance Program included on the NTOC agenda. Ellison extended appreciation to Fenedick for preparing the summary of tribal funding needs. This information will be useful for the budgeting discussions. In addition, brief descriptions of tribal success stories are needed to include with the tribal budget requests.

Manville reported that the Multi-Agency MOU Work Group met twice since the last RTOC meeting. The meeting notes from the December meeting are included in the meeting packet. The official meeting notes from the February meeting have not been issued yet. Key issues of the MOU Work Group include: providing assistance to tribal planning departments, revising the memorandum of understanding which expires in March 2004, developing a response to the issues/projects raised by the Bad River Indian Tribe at the February meeting. The next meeting of the MOU Work Group is scheduled for May 11, 2004, hosted by the Bureau of Indian Affairs.

Berini indicated that the Tribal Science Council has an upcoming meeting this Spring. She has participated in a number of conference calls, but have no report to provide at this time.

Update from the American Indian Environmental Office

Ankrah filled in for Carol Jorgenson, who was unable to attend for medical reasons. Jorgenson is planning on attending the June RTOC meeting.

The General Assistance Program (GAP) budget for fiscal year 2004 is \$62.5 million, however, the AIEO is waiting to learn the final actual budget numbers. In the past, when the Agency has needed to apply budget recisions, the program offices have tried to hold the tribal portions "harmless". Last Fiscal Year, the AIEO has absorbed from its allocation the recision to the GAP.

The tribal environmental agreements (TEAs) are very useful for getting tribal needs into the budget. Region 5 is a leader in developing TEAs. Ankrah encouraged the Region 5 tribes to promote the concept of TEAs to their counterparts in other regions.

Ankrah will be communicating to Jorgenson that the lack of funding for direct implementation tribal cooperative agreements (DITCAs) is a critical issue for Region 5. It would be helpful to identify the particular funding sources and the particular programs/activities of interest.

On the issue of broadening the interpretation of capacity-building under the GAP, the AIEO has taken the issue up with the Office of General Counsel. In the meantime, AIEO is focused on using existing tools such as performance partnership grants. The State of Alaska has requested that it receive the GAP allocation for the Alaskan Native Villages. Alaska has since retracted that request and now has asked to be involved in priority setting.

The current priorities for the AIEO include: (1) finalizing the guidance for consultation with tribes; (2) strengthening the NTOC Tribal Caucus; (3) implementing the GAP tracking system; (4) providing resources to regional offices to provide training to tribal financial managers. Tenenbaum raised the issue of whether categorizing activities in the GAP tracking system could hide the diversity of the types of work conducted under the GAP grants. Ankrah responded that the Agency tried to address this issue, and suggested that AIEO could provide screen shots of the categories for tribal review and feedback.

Ankrah indicated that there has been no official response to a tribal suggestion that the AIEO should be moved out of the Office of Water and placed directly under the Administrator.

Expanding the Definition of Capacity-Building under the General Assistance Program

Ellison provided a draft memorandum that will be distributed to the NTOC, advocating the Agency to reinterpret the GAP statute to allow tribes to implement programs under tribal authority. Ellison does not want the statute re-opened. Instead, Ellison suggested that the existing language in the statute supports this broader interpretation. Comments on the draft memorandum should be forwarded to Ellison prior to the March 22, 2004 meeting of the NTOC.

Tribal Integrated Waste Management Strategy (TIWMS)

Guerriero reviewed the following documents included in the RTOC meeting packet: tribal waste management strategy discussion paper, summary of Region 5 next steps, summary of January 22, 2004 tribal conference call, Tribal Integrated Waste Management Strategy (2/6/04 version). This initiative began with a meeting of U.S. EPA Headquarters and regional offices in December 2003. The TIWMS attempts to bring all Agency waste programs into one document and to work with “sister” federal agencies and tribes. There are six primary elements to the TIWMS – partnerships, pollution prevention, solid waste, hazardous waste, underground storage tanks, brownfields. Region 5 would like to have a federal partnership meeting that would engage other agencies and tribes to develop a role and responsibility matrix, an integrated funding strategy and a list of priority issues. Guerriero encouraged tribes to assist the Agency to identify capacity needs and to participate in the federal partnership meeting. Comments on the Tribal Integrated Waste Management Strategy should be provided to Dolly Tong.

Ellison stated that he believes the Agency is on the right track and raised the following issues. The MPCA provides an exemption from RCRA C compliance for counties that operate household hazardous waste collection sites. Tribes are not covered under RCRA or this state exemption and thus have difficulty participating in the household hazardous waste programs. Ellison also stated that the Region 5 Office of Underground Storage Tanks needs to be more connected to the tribes. Agency staff needs to provide technical assistance and have more than a regulatory relationship with tribal staff.

Mears thanked Tong for scheduling the monthly tribal conference calls. The calls allow for useful tribe-tribe discussion.

Berini asked whether it would be possible to have one grant application that could coordinate funding from more than one federal agency. Guerriero replied that this has been identified as an important issue and will be further evaluated. Jones suggested the tribal open dump project as one example of a multi-agency funding effort.

Guerriero asked whether each tribe should be provided funding to establish an integrated waste management system. There was general support by the RTOC. Tenenbaum indicated that in Michigan each county is required to have an integrated waste management system and it would be logical to extend the same concept to tribal communities.

Status of the Water Division State and Tribal Programs Branch

Traub reported that there are still two management vacancies in the Branch – Chief and Deputy. The Branch Chief position has been posted and closes next week. Water Division expects to fill the position by the end of April. Traub would like the Branch Chief to have the opportunity to select the Deputy position. In addition, any restructuring or staff changes within the Branch will occur after hiring the Branch Chief. Traub reported that 2.8% of the funding managed by the State and Tribal Branch is awarded to tribes; 27% of the staff resources in the Branch are assigned to tribal issues. Traub intends on bringing the new Branch Chief to the June RTOC meeting. Suggestions/ideas for the State and Tribal Programs Branch should be forwarded to Traub.

Prior to the meeting, tribes had requested that Traub discuss the requirement in some recent grant solicitations for grantees to place project data in Storette. Traub indicated that at this time, Region 5 is not requiring tribes to input data in Storette. The Agency recognizes that there are some privacy issues that need to be resolved. The Water Division preference is for tribes to complete “mini-305(b) reports” which would assess waters on the reservation every two years. Current grants that may have language requiring use of Storette will be amended.

Region 5 Annual Tribal Strategic Planning Process

Fenedick reviewed the Summary for Tribal Budget Needs for Fiscal Years 2005 and 2006, which was included in the RTOC meeting packet. This report summarizes the budget and planning information from Fiscal Year 2003 tribal environmental agreements. The Report will be shared with the Regional Indian Work Group, AIEO, and the Region 5 representatives to the NTOC. Traub raised the question of whether information on DITCAs could be added to the document.

Fenedick also reviewed the U.S. EPA Region 5 Tribal Environmental Agreement Template for FY 2005-2007, which was included in the meeting packet. Changes to the format for Fiscal Year 2004 are in response to comments/suggestions from the tribes and the Agency program staff. The annual tribal strategic planning process was started during the GAP conference this week.

Proposed Region 5/Tribal/State Meeting

Dew explained that the Indian Environmental Office received a request from the Grand Traverse Band to arrange for a three party meeting. Skinner indicated that he would defer to the wishes of the RTOC. Ellison indicated that it was briefly discussed at the Tribal Caucus meeting and members had many questions – who would participate from the tribes, what would be on the agenda, what are the objectives of the meeting, etc.

Muno asked whether this would be a meeting state-by-state or region-wide. For general discussions the meeting could be regionwide, but for specific issues the discussion should be state-by state.

The RTOC Tribal Caucus was asked to poll tribes in their respective states on interest in the concept and suggestions for agenda issues. Traub suggested that the meetings be developed for a particular topic like mercury in fish.

Open Forum

Ellison indicated that tribes are concerned about the proposed rule on mercury emissions from utilities. Tribes do not believe they were provided sufficient information on the proposed rule changes. Rothblatt provided a brief overview of the proposed rule and committed to sending information packets to each tribe. Berini suggested that in addition to information, there needs to be some dialogue with U.S. EPA and possibly with other organizations prior to the close of the comment period. Berini also asked if the comment period could be extended. Rothblatt agreed to have Alexis Cain available to speak with the tribes. Fairbanks asked that information on the location of regulated facilities be provided.

Dew announced that Fenedick will be finishing his detail to the IEO this week and will be returning to the Office of Strategic Environmental Analysis. Dew thanked Fenedick for his service to the IEO.

Next Meeting

The next meeting of the RTOC is scheduled for June 02, 2004 and will be hosted by the tribes in Michigan.